Issued: April 19, 1990.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 90-10058 Filed 5-1-90; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[GEN Docket No. 87-389; FCC 90-143]

Operation of Radio Frequency Devices Without an Individual License

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This action responds to petitions for reconsideration of the *First Report and Order* in GEN Docket No. 87-389, 54 FR 17710, April 25, 1989, filed by Control Data Canada, Ltd. (CDC) and Hewlett-Packard Company Medical Products Group (HP). Both petitioners object to the Commission's decision to prohibit the operation of new types of devices in the frequency bands allocated to television (TV) broadcast stations and request clarifications of certain part 15 rules. In response, the Commission is denying the changes to the regulations requested by CDC due to the potential increase in interference to television reception that could result. However, we are granting the change to the rules requested by HP as it appears that granting their request would not result in an increase in potential interference.

EFFECTIVE DATE: May 2, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 653-7313.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum, Opinion and Order* in Gen. Docket No. 87-389, FCC 90-143, adopted April 12, 1990 and released April 25, 1990.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Summary of the Memorandum, Opinion and Order

1. In the *First Report and Order* in this proceeding, the Commission adopted a comprehensive revision of part 15 of its rules governing the operation of radio frequency devices without an individual license. That action provided additional technical and operational flexibility in the design, manufacture and use of non-licensed devices. In taking this step, the Commission recognized the intensive use that future High Definition Television (HDTV) may place on the bands allocated to TV broadcast stations. Thus, the Commission prohibited new types of part 15 devices from access to this spectrum. CDC and HP filed petitions requesting limited exemptions to the prohibitions on operation of new types of non-licensed RF devices in the TV bands.

2. In its petition, CDC, a manufacturer of perimeter protection systems, requests that the Commission: (1) Permit perimeter protection systems operating in the 54-72 MHz and 76-88 MHz bands to be used in residential applications when the residence is an "estate", defined by CDC as residences of two or more acres; (2) provide delegated authority to the staff to exempt particular devices from the requirement that each installation site be tested to demonstrate compliance with the standards; (3) clarify that all perimeter protection systems may use multiple transmitters that comply with the emission limits and that the emissions from these transmitters may be measured at a distance of 30 meters, even if that distance is outside of the property boundary; and, (4) clarify the definition of perimeter protection systems to permit the use of any type of radio frequency transmission lines instead of only "leaky cables."

3. In regard to its first request, CDC claims that use of perimeter protection systems on residential "estates" would not result in interference to TV reception due to the large separation distance from a neighbor's TV receiving system and the extensive use of cable and satellite TV reception systems in "estate" residences. The Commission disagrees. Limiting perimeter protection systems to "estate" residences would not ensure any minimum separation distance between the perimeter protection system and the television antenna receiving system of nearby residences. We also observe that many "estate" residences do in fact rely on the reception of over-the-air transmissions. In view of these concerns, we are denying CDC's request to permit operation of perimeter protection systems on residential "estates."

4. The Commission finds CDC's request to establish a procedure for exempting particular systems from individual site testing to be beyond the scope of issues that can be addressed through reconsideration of the *First Report and Order*. Further, we observe that, in any event, CDC has provided no justification or other analysis to support such a change. We note that site testing of perimeter protection systems is necessary because the levels of emissions from these systems are affected significantly by the characteristics of the site of installation. Thus, we are denying this request.

5. The Commission is providing the clarifications requested by CDC. Perimeter protection systems may employ multiple transmitters provided the system, as installed and tested, complies with the emission limits. Compliance may be demonstrated at a test distance of 30 meters, regardless of whether those measurements are performed beyond or within the boundary of the property on which the equipment is installed. Further, the provision in the definition of a perimeter protection system in §15.3(q) which specifies the use of "leaky cables" does not preclude the use of any type of RF transmission line, defined as a conductor or series of conductors designed to carry electrical energy from a source to a load. We are amending the rules to reflect this interpretation.

6. HP requests that the Commission permit the operation of biomedical telemetry transmitters on TV channels 21-29 (512-566 MHz). It stated that the additional shielding provided by the hospital and the low signal strength of these devices are sufficient to ensure little likelihood of interference to existing TV reception or to future HDTV reception. We agree and are amending the rules to permit the operation of biomedical telemetry devices on TV channels 21-29.

7. HP also requests clarification that new designs of biomedical telemetry transmitters can be operated under the higher field strength limits in the band 174-216 MHz (TV channels 7-13), as permitted under the previous rules. We agree that new designs of these devices can in fact be operated under the provisions of § 15.241. The prohibition in § 15.209 against operation in the TV broadcast bands applies only to devices operated under the provision of that rule section. This prohibition does not apply to devices operated under other rules sections, e.g., §§ 15.231 and 15.241.

8. In accordance with the above discussion and pursuant to the authority contained in sections 4(i), 301, 302, 303, 304 and 307 of the Communications Act of 1934, as amended, *It is Ordered That* the Petition for Reconsideration and Clarification filed by Control Data Canada, Ltd. and the Petition for Reconsideration filed by Hewlett-Packard Company Medical Products Group are granted to the extent indicated herein and in all other respects are denied. In addition, *It is Ordered That* part 15 of the Commission's Rules and Regulations is amended as set forth below. These rules and regulations are effective upon publication in the **Federal Register**.

List of Subjects in 47 CFR Part 15

Communications equipment, radio.

Rule Changes

Title 47 of the Code of Federal Regulations, part 15, is amended as follows:

PART 15—[AMENDED]

1. The authority citation for part 15 continues to read as follows:

Authority: Sec. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, 304, and 307.

2. Section 15.3 is amended by revising paragraph (q) to read as follows:

§ 15.3 Definitions.

* * * * *

(q) *Perimeter protection system.* A field disturbance sensor that employs RF transmission lines as the radiating source. These RF transmission lines are installed in such a manner that allows the system to detect movement within the protected area.

* * * * *

3. Section 15.209 is amended by revising paragraph (g) to read as follows:

§ 15.209 Radiated emission limits, general requirements.

* * * * *

(g) Operation in the frequency bands allocated to TV broadcast stations:

(1) Perimeter protection systems operating under the provisions of this section in the frequency bands allocated to TV broadcast stations, as shown in part 73 of this Chapter, shall contain their fundamental emissions within the frequency bands 54–72 MHz and 76–88 MHz. Further, the use of such perimeter protection systems is limited to industrial, business and commercial applications.

(2) Biomedical telemetry devices operating under the provisions of this section in the frequency bands allocated to TV broadcast stations, as shown in part 73 of this Chapter, shall contain their fundamental emissions within the frequency band 512–566 MHz. Further, the marketing and the use of biomedical telemetry devices operating under this paragraph shall be limited to hospitals.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-10126 Filed 5-1-90; 8:45 am]

BILLING CODE 6712-01-M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1501

[FRL-3761-7]

Acquisition Regulation; Ratification of Unauthorized Commitments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action amends the Environmental Protection Agency (EPA) Acquisition Regulation (EPAAR) coverage on the ratification of unauthorized commitments. The effect of this action is to delete EPAAR coverage that is duplicative of the FAR and to revise the EPAAR policies and procedures on unauthorized commitments.

EFFECTIVE DATE: May 2, 1990.

FOR FURTHER INFORMATION CONTACT: Environmental Protection Agency, Procurement and Contracts Management Division (PM-214), 401 M Street SW., Washington, DC 20460, attn: Paul Schaffer, telephone (202) 382-5032.

SUPPLEMENTARY INFORMATION:

A. Background

On February 22, 1988, the FAR was amended by FAC 84-33, which added regulatory coverage on the ratification of unauthorized commitments. This final rule deletes duplicative coverage in the EPAAR and further amends the EPAAR to clarify and strengthen controls over unauthorized commitments.

B. Executive Order 12291

OMB Bulletin No. 85-7, dated December 14, 1984, establishes the requirements for the Office of Management and Budget (OMB) review of agency procurement regulations. This regulation does not fall within any of the categories cited in the Bulletin requiring OMB review.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain any information collection requirements which would require the approval of OMB under 44 U.S.C. 3501, et seq.

D. Regulatory Flexibility Act

The EPA certifies this rule does not exert a significant economic impact on a substantial number of small entities. The rule merely deletes existing material from the EPAAR that is duplicative of FAR coverage and strengthens controls to reduce the occurrences of unauthorized commitments.

E. Public Comments

The EPA published a notice of proposed rulemaking detailing these changes in the **Federal Register** on December 11, 1989. No comments were received.

List of Subjects in 48 CFR Part 1501

Government procurement, Contracting authority and responsibilities.

For the reasons set out in the preamble, chapter 15 of title 48 Code of Federal Regulations is amended as follows:

PART 1501—[AMENDED]

1. The authority citation for part 1501 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Subpart 1501.6 is amended by adding section 1501.602-3 to read as follows:

1501.602-3. Ratification of unauthorized commitments.

(a) *Definition.* "Unauthorized commitment," as used in this subpart, means an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government. The term does not relate to the Agency process for the reservation of funds.

(b) *Applicability.* The provisions of this section apply to all unauthorized commitments, whether oral or written and without regard to dollar value. Examples of unauthorized commitments are:

(1) Ordering supplies or services by an individual without contracting authority;

(2) Unauthorized direction of work through assignment of orders or tasks;

(3) Unauthorized addition of new work;

(4) Unauthorized direction of contractors to subcontract with particular firms; or

(5) Any other unauthorized direction which changed the terms and conditions of the contract.

(c) *Ratification approvals and concurrences.* (1) The Chief of the Contracting Office is the ratifying official, provided that he/she has redelegable contracting authority.

(2) For ratification actions which arise in regional offices or laboratory sites, the Chief of the Contracting Office to whom the activity functionally reports is the ratifying official, provided that he/she has redelegable authority. The responsible Procurement and Contracts Management Division (PCMD) Associate Director is the ratifying official for actions which arise in regional or laboratory sites which do not functionally report to a contracting officer.

(3) All proposed ratification actions of $250,000 or more for which the responsible PCMD Associate Director is not the ratifying official shall be forwarded for review to the responsible PCMD Associate Director prior to approval by the ratifying official.

(d) *Procedures.* (1) The program office shall notify the cognizant contracting office by memorandum of the circumstances surrounding an unauthorized commitment. The notification shall include:

(i) All relevant documents and records;

(ii) Documentation of the necessity for the work and benefit derived by the Government;

(iii) A statement of the delivery status of the supplies or services associated with the unauthorized commitment;

(iv) A list of the procurement sources solicited (if any) and the rationale for the source selected;

(v) If only one source was solicited, a justification for other than full and open competition (JOFOC) as required by FAR 6.302, FAR 6.303, and 1506.303, or for small purchases exceeding the competition threshold in FAR 13.106, a sole source justification as required by 1513.170;

(vi) A statement of steps taken or proposed to prevent reoccurrence of any unauthorized commitment.

(2) The Division Director (or equivalent) of the responsible office shall approve the memorandum. If expenditure of funds is involved, the program office shall include a Procurement Request/Order, EPA Form 1900–8, with funding sufficient to cover the action. The appropriation data cited on the 1900–8 shall be valid for the period in which the unauthorized commitment was made.

(3) Upon receiving the notification, the Contracting Officer shall prepare a determination and findings regarding ratification of the unauthorized commitment for the ratifying official. The determination and findings shall include sufficient detail to support the recommended action. If ratification of the unauthorized commitment is recommended, the determination and findings shall include a determination that the price is fair and reasonable. To document the determination, additional information may be required from the Contractor. Concurrence by the Office of General Counsel is not mandatory, but shall be sought in difficult or unusual cases.

(4) The ratifying official may inform the Inspector General (IG) of the action by memorandum through the Head of the Contracting Activity (HCA). For ratification actions exceeding the small purchase limitation, the ratifying official shall submit a memorandum to the Assistant Administrator for Administration and Resources Management through the HCA for transmittal to the Assistant, Associate, or Regional Administrator (or equivalent level) of the person responsible for the unauthorized commitment. This memorandum should contain a brief description of the circumstances surrounding the unauthorized commitment, recommend corrective action, and include a copy of any memorandum sent to the IG. Submission of a memorandum to the appropriate Assistant, Associate, or Regional Administrator for unauthorized commitments at or below the small purchase limitation is optional and may be accomplished at the discretion of the ratifying official.

(e) *Paid Advertisements.* (1) EPA is generally not authorized to ratify improperly ordered paid advertisements. The ratifying official, however, may determine payment is proper subject to the limitations in FAR 1.602–3(c) if the individual responsible for the unauthorized commitment acted in good faith to comply with Agency acquisition policies and procedures.

(2) The paying office shall forward invoice claims received in its office for improper paid advertisements to the cognizant ratifying official for a determination regarding ratification of the action.

(3) If the ratifying official determines that an unauthorized commitment cannot be ratified by the Agency, the ratifying official shall instruct the submitter to present its claim to the General Accounting Office in accordance with the instructions contained in 4 CFR part 31, Claims Against the United States, General Procedures.

(f) *Payment of Properly Ratified Claims.* After the unauthorized commitment is ratified, the Contractor must submit an invoice (or resubmit an invoice if one was previously submitted) citing the appropriate contract or purchase order number.

1501.670 [Removed]

3. Subpart 1501.6 is amended by removing section 1501.670.

Dated: April 10, 1990.

John C. Chamberlin,

Director, Office of Administration.

[FR Doc. 90–10195 Filed 5–1–90; 8:45 am]

BILLING CODE 6560–50–M